

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)
)
 Plaintiff,) CV-03-0256-FVS
)
vs.)
)
ELEVEN MILLION NINE HUNDRED) Final Order of Forfeiture
TWENTY-TWO THOUSAND THREE)
HUNDRED (11,922,300) ASSORTED)
BRANDS OF CIGARETTES,)
\$399,765.30 U.S. CURRENCY)
FROM STERLING SAVINGS ACCOUNT)
#XXXXXXXXX0500; and)
\$500,856.00 U.S. CURRENCY,)
)
 Defendants.)

Plaintiff, United States of America, alleged in two separate Verified Complaints for Forfeiture In Rem, (United States v. 11,922,300 Assorted Brands of Cigarettes, CS-03-0256-JLQ; and United States v. \$399,765.00, et al., CS-03-0385-AAM) that the Defendant property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 981 and 18 U.S.C. § 2344(c).

On August 5, 2003, Case No. CS-03-0256-JLQ was reassigned to Judge Robert H. Whaley.

On April 12, 2004, Case No. CS-03-385-AAM was consolidated with Case No. CS-03-256-RHW.

In 2005, the case numbers changed from "CS" for "Civil Spokane" to "CV" for "Civil".

On November 28, 2006, Case No. CV-03-0256-RHW, was reassigned to Judge Fred Van Sickle.

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1335. Venue is proper pursuant to 28 U.S.C. § 1335.

The defendant property being forfeited is described as follows:

1. Eleven million nine hundred twenty-two thousand three hundred (11,922,300) assorted brands of cigarettes (now gross interlocutory sale proceeds in the sum of \$384,240.21);

2. All United States currency funds or other monetary instruments credited to Sterling Savings account number XXXXXXXX0500, in the amount of \$399,765.30, in the name of Louie Mahoney d/b/a JKL Enterprises; and,

3. \$500,856.00 in United States currency.

RESOLUTION OF CLAIMS

1) On July 24, 2003, JKL/Louie Mahoney and Attorney Richard S. Christensen were served via certified mail with copies of the Verified Complaint for Forfeiture In Rem, and Notice of Complaint for Forfeiture, in CV-03-0256-FVS, as evidenced by the Certificate of Service of Notice by Mail filed with the Court on July 24, 2003. On August 7, 2003, Richard Smith appeared on behalf of Louie Mahoney in this matter. On August 7, 2003, Louie Mahoney filed an unverified claim. On August 26, 2003, Louie Mahoney filed an answer.

On January 29, 2004, JKL/Louie Mahoney and Attorney Richard S. Christensen were served via certified mail with copies of the Verified Complaint for Forfeiture In Rem, and Notice of Complaint for Forfeiture, in CS-03-0385-AAM, as evidenced by the Certificate of Service of Notice by Mail filed with the Court on March 9, 2004. On February 25, 2004, Richard Smith appeared on

1 behalf of Louie Mahoney in this matter. On February 25, 2004,
2 Louie Mahoney filed an unverified claim.

3 On or about April 19, 2007, the United States and Louie
4 Mahoney, entered into a plea agreement in the related criminal
5 matter United States v. Louie Mahoney, et al., Eastern District
6 of Washington criminal case number, CR-05-2099-RHW-1, wherein
7 Louie Mahoney agreed to the forfeiture of the Defendant property
8 and acknowledged that the Defendant property is subject to
9 forfeiture as proceeds of illegal conduct, property facilitating
10 illegal conduct, property involved in illegal conduct giving rise
11 to forfeiture, and/or is substitute assets for property otherwise
12 subject to forfeiture. In addition, Louie Mahoney agreed to
13 waive all constitutional and statutory challenges to any
14 forfeiture carried out in accordance with said plea agreement on
15 any grounds, including that the forfeiture constitutes an
16 excessive fine or punishment, and also to execute any and all
17 forms and pleadings necessary to effectuate the forfeiture.

18 On July 27, 2010, Louie Mahoney of JKL Enterprises signed
19 Claimant's Stipulation to Withdraw Claim, filed herein on July
20 27, 2010, thereby withdrawing his claim to the Defendant
21 property.

22 Therefore, any claims to the Defendant property made by
23 Louie Mahoney/JKL Enterprises have been resolved by the
24 stipulation filed herein, and the plea agreement entered in the
25 related criminal case, and he/it has no interest in the Defendant
26 property.

27 2) On or about August 31, 2006, the United States and Kathleen
28 Mahoney, entered into a plea agreement in the related criminal

1 matter United States v. Kathleen Mahoney, et al., Eastern
2 District of Washington criminal case number, CR-05-2099-RHW-2,
3 wherein Kathleen Mahoney agreed to the forfeiture of the
4 Defendant property and acknowledged that the Defendant property
5 is subject to forfeiture as proceeds of illegal conduct, property
6 facilitating illegal conduct, property involved in illegal
7 conduct giving rise to forfeiture, and/or is substitute assets
8 for property otherwise subject to forfeiture. In addition,
9 Kathleen Mahoney agreed to waive all constitutional and statutory
10 challenges to any forfeiture carried out in accordance with said
11 plea agreement on any grounds, including that the forfeiture
12 constitutes an excessive fine or punishment, and also to execute
13 any and all forms and pleadings necessary to effectuate the
14 forfeiture.

15 Kathleen Mahoney did not file claims to the Defendant
16 property, however, any interest she may have had in the Defendant
17 property as the wife of Louie Mahoney has been resolved by the
18 entry of the plea agreement entered in the related criminal case,
19 and she has no interest in the Defendant property.

20 3) On September 8, 2003, L.A. Nelson, Inc., d/b/a Burke's
21 Distributing(hereafter "Burke's"), filed an answer in CS-03-0256-
22 RHW. On December 16, 2003, Burke's filed an unverified claim to
23 the Defendant property.

24 On February 4, 2004, Burke's filed an unverified claim to
25 the Defendant property in CS-03-0385-AAM.

26 On or about July 10, 2009, the United States and Brandon E.
27 Donahue, entered into a plea agreement criminal matter United
28 States v. Brandon E. Donahue, et al., Eastern District of

1 Washington criminal case number, CR-07-0094-LRS-4, wherein
2 Brandon E. Donahue agreed to withdraw his claim submitted by L.A.
3 Nelson d/b/a Burke's Distributing, Inc., in this civil forfeiture
4 action, and also to execute any and all forms and pleadings
5 necessary to effectuate the completion of the civil forfeiture
6 action, and to the forfeiture of the Defendant property. In
7 addition, Brandon Donahue agreed to waive all constitutional and
8 statutory challenges to any forfeiture carried out in accordance
9 with said plea agreement on any grounds.

10 On October 5, 2009, Brandon E. Donahue, and Douglas Burke
11 d/b/a Burke's signed Claimant's Stipulation to Withdraw Claim,
12 filed herein on October 15, 2009, thereby withdrawing their and
13 Burke's claims to the Defendant property.

14 Therefore, any claims to the Defendant property made by
15 Brandon E. Donahue, Douglas Burke, and Burke's have been resolved
16 by the stipulation filed herein, and the plea agreement entered
17 in Brandon Donahue's criminal case, and they have no interest in
18 the Defendant property.

19 4) On September 8, 2003, Blacksheep Distributing,
20 Inc.(hereafter "Blacksheep"), filed an answer in CS-03-0256-RHW.
21 On December 16, 2003, Blacksheep filed an unverified claim to the
22 Defendant property.

23 On February 4, 2004, Blacksheep filed an unverified claim to
24 the Defendant property in CS-03-0385-AAM. On February 20, 2004,
25 2004, Blacksheep filed an answer.

26 On or about July 10, 2009, the United States and Brandon E.
27 Donahue, entered into a plea agreement in criminal matter United
28 States v. Brian T. Donahue, et al., Eastern District of

1 Washington criminal case number, CR-07-0094-LRS-5, wherein Brian
2 T. Donahue agreed to withdraw his claim submitted by Blacksheep
3 Distributing, Inc., in this civil forfeiture action, and also to
4 execute any and all forms and pleadings necessary to effectuate
5 the completion of the civil forfeiture action, and to the
6 forfeiture of the Defendant property. In addition, Brian Donahue
7 agreed to waive all constitutional and statutory challenges to
8 any forfeiture carried out in accordance with said plea agreement
9 on any grounds.

10 On October 14, 2009, Brian T. Donahue d/b/a Blacksheep,
11 signed Claimant's Stipulation to Withdraw Claim, filed herein on
12 October 15, 2009, thereby withdrawing his/its claim to the
13 Defendant property.

14 Therefore, any claims to the Defendant property made by
15 Brian T. Donahue, and Blacksheep have been resolved by the
16 stipulation filed herein, and the plea agreement entered in Brian
17 Donahue's criminal case, and he/it has no interest in the
18 Defendant property.

19 5) The Notice of Complaint (CV-03-0256-FVS) was published on
20 September 24, October 1 and 8, 2003, in the Gazette Record, a
21 newspaper of general circulation in Benewah County, Idaho, as
22 evidenced by the TDF-90 form filed with the Court on December 30,
23 2003. The Notice of Complaint (CV-03-0385-AAM) was published on
24 February 18 and 26, and March 3, 2004, in the Gazette Record, a
25 newspaper of general circulation in Benewah County, Idaho, as
26 evidenced by the TDF-90 form filed with the Court on March 22,
27 2004. Rule C of the Supplemental Rules for Certain Admiralty and
28 Maritime Claims, Fed. R. Civ. P., and 18 U.S.C. § 983(a)(4)(A),

1 require that claimants file a claim within thirty (30) days after
2 final date of publication of the Notice of Complaint for
3 Forfeiture, or within thirty (30) days after service of the
4 complaint, whichever occurs first. At the latest this 30-day
5 period expired on April 2, 2004. No other claims to the
6 Defendant property have been filed.

7 6) It appearing to the Court that JKL/Louie Mahoney's interest
8 in the Defendant property has been resolved through the entry of
9 his plea agreement in the related criminal matter, and the
10 stipulation to withdraw claim filed herein;

11 7) It appearing to the Court that any interest that Kathleen
12 Mahoney may have had in the Defendant property has been resolved
13 through the entry of her plea agreement in the related criminal
14 matter, and she did not file claims in the civil forfeiture
15 matter(s);

16 8) It appearing to the Court that Burke's/Brandon Donahue's,
17 interest in the Defendant property has been resolved through the
18 entry of his plea agreement in the criminal matter, and the
19 stipulation to withdraw claim filed herein;

20 9) It appearing to the Court that Burke's/Douglas Burke's,
21 interest in the Defendant property has been resolved through the
22 stipulation to withdraw claim in filed herein;

23 10) It appearing to the Court that Blacksheep/Brian T. Donahue's
24 interest in the Defendant property has been resolved through the
25 entry of his plea agreement in the criminal matter, and the
26 stipulation to withdraw claim;

27 11) It further appearing to the Court that no other claims have
28 been made to the defendant property;

1 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the:

2 1. Eleven million nine hundred twenty-two thousand
3 three hundred (11,922,300) assorted brands of
cigarettes (now gross interlocutory sale proceeds in
the sum of \$384,240.21);

4 2. All United States currency funds or other monetary
5 instruments credited to Sterling Savings account number
XXXXXXX0500, in the amount of \$399,765.30, in the name
6 of Louie Mahoney d/b/a JKL Enterprises; and,

7 3. \$500,856.00 in United States currency;

8 are hereby forfeited to the United States of America, and no
9 right, title, or interest shall exist in any other person.

10 IT IS FURTHER ORDERED that the United States shall dispose
11 of the forfeited Defendant property described herein in
12 accordance with law.

13 DATED this 6th day of August, 2010.

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S/Fred Van Sickle
Fred Van Sickle
16 Senior United States District Judge
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